

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 24, 2004. In order to advance prosecution of this Application, Claims 9, 21, and 25-27 have been amended. Applicant respectfully requests reconsideration and favorable action in this case.

Claims 1-4, 13-16, 28-31, and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Gerszberg, et al. Independent Claims 1, 13, 28, and 38 recite in general the ability to interface with first and second data communication protocols and that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with first and second data communication protocols and also fails to disclose the types of broadband networks provided in the claims. The Examiner cites a portion of the Focsaneanu, et al. patent that briefly mentions different protocols for connection requests and grants. However, it is easily recognizable that protocols for establishing connections are not the same as data communication protocols. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with first and second data communication protocols. However, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling

multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. The unique protocol discussed in the Chao, et al. patent is a contention protocol to provide fair access to the upstream bus for all units. Thus, the contention protocol for providing fair access to the upstream bus mentioned by the Chao, et al. patent does not provide the ability to interface with first and second data communication protocols as required by the claimed invention. The Examiner has yet to show how the unique protocol described in the Chao, et al. patent is able to interface with first and second data communication protocols provided in the claimed invention.

The Examiner combines the Gerszberg, et al. patent with the Focsaneanu, et al. patent to support the fact that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. However, the portions of the Gerszberg, et al. patent cited by the Examiner provide for only a single type of communication capability to and from its customer premises. The portions of the Focsaneanu, et al. patent and the Gerszberg, et al. patents cited by the Examiner are merely directed to bandwidth allocation and not any ability to interface with first and second data communication protocols. Thus, the Gerszberg, et al. patent does not disclose interfacing with first and second data communication protocols as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-4, 13-16, 28-31, and 38-41 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination.

Claims 5-7, 17-19, 32, 33, 42, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and

further in view of Hortenslus, et al. Independent Claim 1, from which Claims 5-7 depend; Independent Claim 13, from which Claims 17-19 depend; Independent Claim 28, from which Claims 32 and 33 depend; and Independent Claim 38, from which Claims 42 and 43 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Hortenslus, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 5-7, 17-19, 32, 33, 42, and 43 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Hortenslus, et al. combination.

Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Pounds, et al. Independent Claim 1, from which Claims 8, 10, and 12 depend; Independent Claim 13, from which Claims 20, 22, and 24 depend; Independent Claim 28, from which Claims 34, 35, and 37 depend; and Independent Claim 38, from which Claims 44, 45, and 47 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Pounds, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Pounds, et al. combination.

Claims 11, 23, 36, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lyles, et al. Independent Claim 1, from which Claim 11 depends; Independent Claim 13, from which Claim 23 depends; Independent Claim 28, from which Claim 36 depends; and Independent Claim 38, from which Claim 46 depends, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Lyles, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11, 23, 36, and 46 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lyles, et al. combination.

Applicant notes with appreciation the allowability of Claims 9, 21, and 25-27 if placed into appropriate independent form. Claims 9, 21, and 25-27 have been amended into proper independent form as suggested by the Examiner. Therefore, Applicant respectfully submits that Claims 9, 21, and 25-27 are in condition for allowance.

With the presentation of five new independent claims, an additional filing fee is due. Attached herewith is a check made payable to the "Commissioner of Patents and Trademarks" in an amount of \$215.00 to satisfy the excess independent claims fee of 37 C.F.R. §1.16(b).

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-47.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

September 24, 2004

CORRESPONDENCE ADDRESS:

2001 Ross Avenue, Suite 600

Dallas, Texas 75201-2980

(214) 953-6507

Customer Number: 05073